



January 4, 2018

**To: Christy Vandevender, Chair
Nexus Committee**

**From: Richard Cram
Nexus Program Director**

Re: Proposal to change procedures for online marketplace seller voluntary disclosure agreement processing

I am proposing for the Nexus Committee's consideration a change to the processing of online marketplace seller voluntary disclosure agreements (pursuant to applications received under the online marketplace seller voluntary disclosure initiative by the November 1, 2017 deadline) that are executed and signed by the taxpayer. Under the current process, and as provided in the agreement form used for online marketplace sellers, Paragraph 5.1 requires the taxpayer to send to MTC staff the taxpayer-signed agreement, completed registration forms (or written confirmation of online registration with the state), and if the state has a lookback period, back tax returns/spreadsheets and payments, all within 30 days of receiving notice from MTC staff that the state has signed the agreement. The MTC staff then sends all of these items on to the state, after receiving them from the taxpayer. If the taxpayer fails to complete these items within the 30 days, the agreement is void under Paragraph 5.4, unless an extension is granted. Under Paragraph 7.1 of the agreement, the MTC is to maintain the original of the agreement and provide a certified copy upon request.

The proposed change would grant MTC staff the flexibility to direct the online marketplace seller-taxpayer to send directly to the state the taxpayer-signed agreement, completed registration forms, back tax payment (if required), and back tax returns/spreadsheets (if required), instead of directing the taxpayer to send such items to MTC staff, to be forwarded on to the state. MTC staff would also notify the state of the date that MTC staff provided notice to the taxpayer that the state had signed

the agreement. This notice triggers the 30 days in which the taxpayer is required to disclose identity, sign the agreement, and return it, along with completed registration forms (or confirmation of online registration), and back tax payment and returns/spreadsheets (if required). This proposed change should shorten processing time, speed up registration of taxpayers with the states, and reduce the demand on MTC staff resources in handling the applications of 852 online marketplace sellers that applied for multistate voluntary disclosure relief under the initiative last fall.

Under this proposed change, MTC staff would be unable to provide a certified copy of the agreement, because taxpayers would be sending their signed agreements directly to the state. MTC staff would not have access to the taxpayer-signed page of the agreement, which would be going directly to the state.

This proposal would not change the processing of voluntary disclosure agreements under the ongoing Multistate Voluntary Disclosure Program. It would apply only to completion of the processing of agreements under the online marketplace seller voluntary disclosure initiative.

The standard form prospective agreement currently being used for online marketplace seller voluntary disclosure agreements, as well as the current Procedures for Multistate Voluntary Disclosure, are attached for reference. Although the states participating in the online marketplace voluntary disclosure initiative that have lookback periods (Colorado, Massachusetts, Minnesota and Wisconsin) are using agreement forms that are not identical to the prospective agreement, those agreement forms contain the relevant language in Paragraphs 5.1, 5.4 and 7.1 discussed herein.